

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 05-10004-PBS
)	
OLEKSIY SHARAPKA)	

DEFENDANT'S MOTION *IN LIMINE* TO PRECLUDE CERTAIN EVIDENCE

The Defendant, Oleksiy Sharapka (the "Defendant"), by and through undersigned counsel, pursuant, inter alia, Fed. R. Evidence. 403, moves this Honorable Court to preclude the Government from introducing the following evidence in its case in chief:

1. The defendant gives an extensive statement as to his knowledge and involvement in not only the acts charged but activity in Atlanta, Georgia where he fled while on pre-trial release on a similar federal case. The report summarizing his statement is attached as exhibit 1. The portions of the statement in which the defendant speaks of his activity and federal matter in Atlanta should be excluded from evidence. The probative value is substantially outweighed by the danger of unfair prejudice. Any evidence of the defendant being charged in Georgia and fleeing the jurisdiction would serve to inflame the jury against the defendant and should be excluded; the unfair prejudice substantially outweighs any probative value it serves.

Dated: November 22, 2005

Respectfully submitted,
Oleksiy Sharapka,
By his attorney,

/S/Frank Fernandez
Francisco Fernandez
Denner Associates P.C.
Four Longfellow Place, 35th Floor
Boston, MA 02114

CERTIFICATE OF SERVICE

I, Frank Fernandez, attorney for the Defendant in the above-captioned action, do hereby certify that on November 22, 2005, a true and exact copy of the foregoing Motion was served, by hand, to AUSA Seth Berman.

/S/ Frank Fernandez
Frank Fernandez

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/08/2004

On Sunday, November 7, 2004, while listening to the news on the radio, SA Angelo A. Rinchiuso heard that a person of Russian decent had been arrested by the Boston Police department and had ties to Russian Organized Crime. S.A. Angelo. A. Kinchiuso immediately contacted TFO Val Krishtal and told him to meet at the Boston Police Department, Area D-14, Brighton, Ma. Once at that location (D-14), the desk personnel made SA Angelo A. Rinchiuso aware that the person who was arrested by Boston Police Department, identified as of Andrew Schwankoff, was still being held in their lockup. At that time Boston Police Detective Blair was contacted at his residence, and was advised by writer that they wanted to interview his arrestee. Detective Blair concurred with that request as long as subject, Andrew Schwankoff, signed off on his waiver of Prompt Arraignment and Miranda rights.

On same, date at approximately 12:16 p.m., SA Angelo A. Rinchiuso and '270 Val Krishtal read to Andrew Schwankoff his Advice of Rights (form ED 395), and the Boston Police Department Waiver of Prompt Arraignment (Rosario Waiver) at which time Schwankoff read and then signed both. Sohwanckoff thereafter voluntarily provided the following information:

Andrew Schwankotf advised that he has only been using the name Schwankoff for about two days. It was one of the names that he just picked out from some of his friends on ICQ. Schwankoff stated that his true birth name is Oleksiy Sharapka and has a daze of birth of September 29, 1976. Sharapka was born in Kiev, Ukraine. Sharapka is the name that he officially uses on his passport. Sharapka stated that Secret Service in Atlanta was holding his original passport. Sharapka has also used the name of Alexis Llanos and several others that he could not remember. Sharapka stated that the other names were on the cards that were confiscated when he was arrested by Boston Police on 11/05/04

Sharapka, (Schwankoff) advised that he first obtained his Bachelor of Arts degree in Economics from Ukraine University Sharapka entered the United States in 2001. Sharapka resided in the Boston Area during the years 2002 through 2002.

Investigation on 11/07/04, Brighton, Ma.

File # 288A—BS--94613
S.A. ANGELO A. RINCHIUSO
TFO VAL KRISHTAL

Dated dictated 11/08/04

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Sharapka advised that he was attending Boston College and was pursuing a Doctorate in Financial Economics. Boston College had given him a stipend of \$45,000 to attend. After 2002, he moved to the State of Georgia, where he received a Doctorate degree in Economics from University of Georgia.

Sharapka advised that he is single and has no children. Sharapka has a mother, father and sister who are all alive and live in Kiev. Sharapka stated that his father was 50 years old and his mother was 52 years old. His sister was 19 years old. Sharapka's present address is 67 Euston rd, Apt #2, Brighton, Ma. Sharapka advised that his personal cell phone has the number of (404) 247-7217, and was issued by T—Mobile. Sharapka stated that he also uses six or seven other cell phones for his business; bin did not recall the numbers. Sharapka advised that those were the cell phones taken by Boston Police at the time of his arrest. Those phones *were* also issued by T—Mobile. Sharapka was asked where he purchased those deli phones and under what names were they listed. Sharapka advised that he bought those phones in Atlanta, Georgia, from a Chinese man, who owns a small phone shop somewhere in downtown Atlanta. Sharapka stated that the phones are not in his name, but in the names that the Chinese man provided for him. Sharapka does not know the name of this man and does not recall the name or address of the shop. Sharapka continues to use his T—Mobile cell phones by buying prepaid cards. Sharapka has about \$1,000 in prepaid credit for the phone number (404) 247—7217, which he states was his primary phone.

Sharapka next advised that on May 17, 2004, he was arrested by Secret Service, Atlanta, Georgia. Sharapka stated that he was charged with nine felony counts of fraud. Sharapka stated that he had made bail and was out under house arrest. Sharapka stated that he had rented two apartments in Atlanta; one to conduct his business in and the other to live in. Because he was not able to work, his landlord became irate and removed all of his business property from the one apartment, including \$ 10,000 in cash, which he had hidden in the apartment. Sharapka stated that the landlord stole his property. Sharapka was also evicted from the apartment that he was using as his primary residence and had nowhere to go. Sharapka advised that after receiving word from Secret Service Agent Benedict Murrey that he (Murrey) was being reassigned to a Presidential detail, he (Sharapka) decided to relocate. Sharapka said that Even though he had financial fraud charges pending against him, he decided.

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to relocate back to the Boston area. Sharapka traveled by Greyhound Bus to Boston, because he had no money. All of his money had been confiscated during his arrest in Atlanta.

Sharapka advised that in the course of the Secret Service investigation regarding his illegal activities, they seized a shipment of three SUV vehicles that Sharapka was sending to the Ukraine. The three SUVs were seized in Spain. Sharapka advised that he bought two Nissans and one Infinity, totaling in value of \$150,000. Sharapka advised that the people, who paid for these SUVs in Russia, were not happy with the seizure, because they had fronted the money for the purchase. Sharapka advised that he was currently engaging in illegal activities, in order to raise money to pay this debt. Sharapka also advised that another reason he left Atlanta was that the people he owed money believed that he might be cooperating with the authorities.

Sharapka was next asked how many mail addresses he used. Sharapka advised that he used over several P.O. Boxes throughout the Boston Area. All of the Post Office Boxes were associated with Mail Box Etc. Sharapka advised that he had two P.O. Boxes on Tremont street, under the name of Alexi Llanos. Sharapka has another P.O. Box at 1085 Commonwealth Ave, also under the name of Alexi Llanos. Sharapka has two P.O. Boxes on Newbury Street, under the name of Andrew Schwankoff,

Sharapka advised that he and his group wire transfer money to the Deutsche Bank (Germany) and from there it usually ended up in banks in either Moscow or banks in the Baltic states. When his partners in Kiev would wire transfer money back to him, they would usually use Wachovia Bank or the Deutsche bank. The wire transfers were usually over the 510,000 amount. Sharapka was not aware of the financial reporting when dealing with the banks, until he was arrested in Atlanta.

Sharapka advised that he and his group also used Western Union to send money back and forth from the United States to Kiev and Moscow. Sharapka would usually pick up money from anywhere between \$2,500 and \$4,000 per day, from two different locations, every day for two weeks. Sharapka advised that most of this was the money sent to him for the purchase of three SUVs. Sharapka advised that this was done to avoid reporting requirements and to avoid showing several different forms, of identification. Sharapka advised that he had around

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\$17,000 cash in possession when he was arrested. Sharapka also advised that they transfer money through Online Type Money (OTM) service, similar to PAYPAL. This OTM service is used throughout Russia, so that money cannot be traced.

Sharapka was asked what the names of his Russian employers were back in Kiev. Sharapka stated that he only knows one of them called Misha. Sharapka talks to him through ICQ on the internet. Sharapka believes Misha is presently living in Moscow. Misha contacted Sharapka and instructed him to purchase laptops, camera s and other appliance items with fraudulent cards that they use. Sharapka then shipped the items back to Kiev and the Baltic States.

Sharapka was next asked what banks within the Boston area he has used to conduct his fraudulent schemes. Sharapka advised that he has only opened up accounts with Citizen Bank. Sharapka denied having any accounts with fleet Bank. Sharapka also advised that the easiest banks to commit fraud against are Citizen Bank and Sovereign Bank.

Sharapka advised that Misha is extremely intelligent individual. As an example, Sharapka stated that he uses a system that puts a block on his address; however, Misha IF him via ICQ and told him that he was able to trace his home address to 67 Euston Rd. Brighton, Na. Misha also told Sharapka that he has a network of individuals in the Chicago area, committing schemes at Chicago area banks. These phishing schemes net approximately \$60,000 to \$80,000 a day, and sometimes as high as \$150,000 a day. These schemes are based on capturing data from bank computers, which conduct several daily dumps of information. To obtain the information, the sixteen digit ATM/credit card number, in conjunction with the cards expiration dates, is used to obtain all the account information, including the PU4 numbers. The data is then transferred to a blank card, which is then used to drain the accounts. Most of the victims who are targeted are wealthy and have high daily withdrawal limits. Sharapka stated that the scheme is so easy to perpetrate, that they are thousands of people that are doing it. Sharapka further stated that he has at least 400 people in his ICQ address book, and at least half o Them are involved in the "phishing" scheme. Sharapka also states that at one time the Wells Fargo Bank, used to be an easy target for that type of scheme. However, because they (Wells Fargo) have lowered their withdrawal limit, they no longer are worth the effort.

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Sharapka advised that he uses the internet name of SINUE on the Instant Messenger, ICQ.

Sharapka was next asked if he had used any of the fraudulent ATM cards to withdraw money within recent weeks. Sharapka stated that it was quite possible that he had. Sharapka also stated that several of his friends, who have returned to Russia, have left him their ATM Cards, along with PIN numbers, allowing him to withdraw money from those accounts.

In conclusion of this interview, Sharapka was asked if he wanted to add any additional information to his statements. Sharapka stated the following: Although, he was not aware that his activity prior to his arrest in Georgia was unlawful, when he was committing his acts in Boston, he was fully aware that the acts were illegal. Sharapka then asked SA RINCHIUSO and TFO KRISHTAL a question regarding cooperation with the authorities. Sharapka wanted to know, how he could benefit from cooperation with the investigators. Sharapka was advised that it was up to him and his attorney to make of those arrangements.

Oleksiy Sharapka is physically described as follows:

Sex	Male
Race	White-non-Hispanic
DOB	09/29/76
SSN	Unk
Hair	Brn
Eyes	Hazel
Weight	195lbs
Build	Medium
Address	67 Euston Rd., apt 2, Brighton
Marital Status	Single
POB	Kiev, Ukraine